

United States District Court  
Southern District of Texas  
FILED

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION

JAN 20 2009

Michael N. Milby  
Clerk of Court

UNITED STATES OF AMERICA

§

vs

§

CRIMINAL NO.

  
OSCAR PENA

§

**B-09-061**

  
MARK MACHADO

§

*Partially*  
*Un-(SEALED) 1-26-09*  
INDICTMENT

THE GRAND JURY CHARGES:

COUNT ONE

From on or about January 1, 2007, until on or about February 20, 2008, in the  
Southern District of Texas, Defendants

  
OSCAR PENA,  
and  


together and with others known and unknown to the grand jury, did unlawfully, willfully and  
knowingly combine, conspire, confederate and agree among themselves and each other  
to commit certain offenses against the United States as follows:

(a) knowingly smuggling goods from the United States in violation of Title 18, United  
States Code, Section 554.

In furtherance of the conspiracy and to achieve the objects thereof, the Defendants  
and their co-conspirators, known and unknown to the grand jury, committed the following  
overt acts in the Southern District of Texas and elsewhere:

1. From on or about March 19, 2007, until on or about April 27, 2007, Defendant [REDACTED] purchased and caused to be purchased firearms over the internet which were delivered to Cesar Saenz doing business as South Texas Guns, a licensed dealer in firearms located in Rio Hondo, Texas.

2. From on or about March 19, 2007, to on or about April 27, 2007, Defendant [REDACTED] transported firearms from Rio Hondo, Texas, to Brownsville, Texas, and delivered them to Defendant **OSCAR PENA**.

3. From March 19, 2007, until on or about April 27, 2007, Defendants [REDACTED] and **OSCAR PENA** purchased or caused firearms to be purchased from Defendant [REDACTED].

4. From on or about January 31, 2007, until on or about February 20, 2008, Defendants [REDACTED] and **OSCAR PENA** purchased or caused firearms to be purchased from **MARK MACHADO** which were later exported to Mexico.

5. From on or about January 1, 2007, until on or about February 20, 2008, Defendants [REDACTED] and **OSCAR PENA** received and stored firearms intended for export at their place of business, La Cueva, a drive through convenience store located in Brownsville, Texas, at 1010 South Central Avenue.

In violation of Title 18, United States Code Sections 371 and 554.

COUNT TWO

From on or about January 31, 2007, until on or about February 20, 2008, in the Southern District of Texas, Defendant

**MARK MACHADO,**

willfully engaged in the business of dealing in firearms without a license.

In violation of Title 18, United States Code, Sections 922(a)(1)(A), 924(a)(1)(D) and 2.

COUNT THREE

From on or about January 31, 2007, until on or about February 20, 2008, in the Southern District of Texas, Defendants

[REDACTED]  
and  
[REDACTED]

knowingly received and bought objects and articles, to-wit; .223 caliber semi-automatic rifles, prior to exportation, knowing the said rifles to be intended for export to the Republic of Mexico contrary to the laws and regulations of the United States.

In violation of Title 18, United States Code, Sections 554 and 2.

COUNT FOUR

On or about February 22, 2008, in the Southern District of Texas and within the jurisdiction of the Court, Defendant

[REDACTED]  
having been convicted on February 17, 2004, in the Southern District of Texas, in Cause No. 1:03-CR-00866, of the felony offense of dealing in firearms without a license, a crime punishable by imprisonment for a term exceeding one year, did knowingly possess in and affecting commerce a firearm, namely, one Heckler and Koch, .40 caliber, semi-automatic handgun bearing serial number 26-062276.

In violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2).

COUNT FIVE

From on or about September 26, 2007, until on October 4, 2007, in the Southern District of Texas and elsewhere and within the jurisdiction of the Court, Defendant

did knowingly and intentionally conspire and agree with persons known and unknown to the Grand Jurors to knowingly and intentionally possess with intent to distribute a quantity less than five hundred (500) grams of cocaine, a Schedule II controlled substance.

In violation of Title 21, United States Code, Sections 846, 841(a)(1), and 841(b)(1)(C).

COUNT SIX

On or about October 2, 2007, in the Southern District of Texas and within the jurisdiction of the Court, Defendant

[REDACTED]

did knowingly and intentionally possess with intent to distribute a quantity less than five hundred (500) grams, that is, approximately 14.76 grams of cocaine, a Schedule II controlled substance.

In violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(C), and Title 18, United States Code, Section 2.

A TRUE BILL:

\_\_\_\_\_  
FOREPERSON OF THE GRAND JURY

TIM JOHNSON  
ACTING UNITED STATES ATTORNEY

  
\_\_\_\_\_  
William Hagen  
Assistant United States Attorney